

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
Laws Code
Chapter 9051
9/18/14

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27		CHAPTER 9051. JEFFERSON COUNTY WATER CONTROL AND IMPROVEMENT	
28		DISTRICT NO. 10	
29		SUBCHAPTER A. GENERAL PROVISIONS	
30		<u>Revised Law</u>	
31	Sec. 9051.001.	DEFINITIONS. In this chapter:	
32	(1)	"Board" means the district's board of directors.	
33	(2)	"Director" means a board member.	
34	(3)	"District" means the Jefferson County Water	

Control and Improvement District No. 10. (Acts 54th Leg., R.S., Ch. 245, Sec. 1 (part); New.)

Source Law

Sec. 1. . . . [a conservation and reclamation district] to be known as "Jefferson County Water Control and Improvement District Number 10,"

Revisor's Note

The definitions of "board" and "director" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 9051.002. NATURE OF DISTRICT. The district is a conservation and reclamation district in Jefferson County created under Section 59, Article XVI, Texas Constitution, for the purposes of:

(1) controlling, conserving, protecting, preserving, distributing, and using surface water;

(2) producing, distributing, and using groundwater; and

(3) regulating, controlling, and disposing of sewerage, waste, and other refuse to prevent the contamination of the public waters. (Acts 54th Leg., R.S., Ch. 245, Secs. 1 (part), 2 (part), 3 (part).)

Source Law

Sec. 1. Pursuant to and as expressly authorized by Section 59 of Article XVI of the Constitution of the State of Texas and in addition to the Districts into which the State has heretofore been divided, there is hereby created a conservation and reclamation district [to be known as "Jefferson County Water Control and Improvement District Number 10,"] which shall be recognized to be a governmental agency and body politic and corporate of this State.

Sec. 2. . . . by this Act the District shall be fully created and established within the boundaries hereinafter defined and Without limiting the generality of the foregoing, the District hereby created shall be for the purpose of controlling, conserving, protecting, preserving, distributing and utilizing surface waters; for the purpose of producing, distributing and utilizing subsurface or underground waters; and for the purpose of regulating, controlling and disposing of sewerage, waste, and

1 other refuse to prevent the contamination of the
2 public waters. . . .

3 Sec. 3. The District hereby created and
4 established, situated wholly within Jefferson County,
5 Texas,

6 Revisor's Note

7 (1) Section 1, Chapter 245, Acts of the 54th
8 Legislature, Regular Session, 1955, states that the
9 district is created "in addition to the Districts into
10 which the State has heretofore been divided." The
11 revised law omits the quoted language as unnecessary
12 because the absence of the language does not imply that
13 the legislature could create a district outside its
14 jurisdiction or that the district is not in addition to
15 any other districts.

16 (2) Section 1, Chapter 245, Acts of the 54th
17 Legislature, Regular Session, 1955, provides that the
18 Jefferson County Water Control and Improvement
19 District No. 10 is "a conservation and reclamation
20 district . . . which shall be recognized to be a
21 governmental agency and body politic and corporate."
22 The revised law omits the quoted language because it
23 duplicates in substance a portion of Section 59(b),
24 Article XVI, Texas Constitution, which provides that a
25 conservation and reclamation district is a
26 governmental agency and a body politic and corporate.

27 (3) Sections 2 and 3, Chapter 245, Acts of the
28 54th Legislature, Regular Session, 1955, refer to the
29 creation and establishment of the district. The
30 revised law omits "fully created and established" and
31 "hereby created and established" as executed.

32 (4) Section 2, Chapter 245, Acts of the 54th
33 Legislature, Regular Session, 1955, provides that
34 "[w]ithout limiting the generality of the foregoing"
35 the district is created for certain purposes. The
36 revised law omits the quoted language because under

1 Section 311.021(2), Government Code (Code
2 Construction Act), it is presumed that all parts of a
3 statute are intended to be effective. Any applicable
4 limitations apply by their own terms.

5 (5) Section 2, Chapter 245, Acts of the 54th
6 Legislature, Regular Session, 1955, refers to
7 "subsurface or underground waters." The revised law
8 substitutes "groundwater" for "subsurface or
9 underground waters" because that is the term used in
10 Chapter 36, Water Code, and is the more commonly used
11 and modern term.

12 Revised Law

13 Sec. 9051.003. LEGISLATIVE FINDING. The legislature finds
14 that the district is essential to the accomplishment of the
15 purposes of Section 59, Article XVI, Texas Constitution. (Acts 54th
16 Leg., R.S., Ch. 245, Sec. 11 (part).)

17 Source Law

18 Sec. 11. The Legislature hereby declares [that
19 the enactment hereof is in fulfillment of a duty
20 conferred upon it] by Section 59 of Article XVI of the
21 Constitution of Texas . . . that the District herein
22 created is essential to the accomplishment of the
23 purposes of said Constitutional provision; and

24 Revised Law

25 Sec. 9051.004. LIBERAL CONSTRUCTION OF CHAPTER. This
26 chapter shall be liberally construed to effect its purposes. (Acts
27 54th Leg., R.S., Ch. 245, Sec. 11 (part).)

28 Source Law

29 Sec. 11. . . . All the terms and provisions of
30 this Act are to be liberally construed to effectuate
31 the purposes herein set forth.

32 Revised Law

33 Sec. 9051.005. CORRECTION OF INVALID PROCEDURES. If a
34 court holds that any procedure under this chapter violates the
35 constitution of this state or of the United States, the district by
36 resolution may provide an alternative procedure that conforms with
37 the constitution. (Acts 54th Leg., R.S., Ch. 245, Sec. 12 (part).)

1 Source Law

2 Sec. 12. . . . [Federal or State Constitutions]
3 Where any procedure hereunder may be held by
4 any court to be violative of either of such
5 Constitutions, the District shall have the power by
6 resolution to provide an alternative procedure
7 conformable with such Constitutions. . . .

8 Revisor's Note

9 Section 12, Chapter 245, Acts of the 54th
10 Legislature, Regular Session, 1955, provides that the
11 act may not be construed to violate the federal or
12 state constitution and requires that action under the
13 act comply with the constitutions. The revised law
14 omits the reference to the federal constitution
15 because, under the Supremacy Clause of the United
16 States Constitution (Clause 2, Article VI), federal
17 law always takes precedence over a state statute. The
18 revised law omits the reference to the state
19 constitution because the state legislature cannot
20 modify constitutional provisions by statute. The
21 omitted law reads:

22 Sec. 12. Nothing in this Act shall be
23 construed to violate any provision of the
24 Federal or State Constitutions, and all
25 acts done under this Act shall be done in
26 such a manner as will conform thereto,
27 whether herein expressly provided or
28 not. . . .

29 Revisor's Note
30 (End of Subchapter)

31 Section 11, Chapter 245, Acts of the 54th
32 Legislature, Regular Session, 1955, contains a
33 legislative declaration of a constitutional "duty" to
34 enact Chapter 245 as law and a legislative finding
35 regarding the operation of that chapter. The revised
36 law omits the declaration by the legislature as
37 executed and omits the finding because it has no
38 substantive effect. The omitted law reads:

39 Sec. 11. [The Legislature hereby
40 declares] that the enactment hereof is in
41 fulfillment of a duty conferred upon it [by

1 Section 59 of Article XVI of the
2 Constitution of Texas] wherein it is
3 empowered to pass such laws as may be
4 appropriate in the preservation and
5 conservation of the natural resources of
6 the State; . . . that this Act operates on a
7 subject in which the State at large is
8 interested. . . .

9 SUBCHAPTER B. DISTRICT TERRITORY AND ANNEXATION

10 Revised Law

11 Sec. 9051.051. DISTRICT TERRITORY. The district is
12 composed of the territory described by Section 3, Chapter 245, Acts
13 of the 54th Legislature, Regular Session, 1955, as that territory
14 may have been modified under:

- 15 (1) Subchapter O, Chapter 51, Water Code;
16 (2) Subchapter J, Chapter 49, Water Code; or
17 (3) other law. (New.)

18 Revisor's Note

19 The revision of the law governing the district
20 does not revise the statutory language describing the
21 territory of the district to avoid the lengthy
22 recitation of the description and because that
23 description may not be accurate on the effective date
24 of the revision or at the time of a later reading. For
25 the reader's convenience, the revised law includes a
26 reference to the statutory description of the
27 district's territory and references to statutory
28 authority to change the district's territory under
29 Subchapter O, Chapter 51, Water Code, applicable to
30 water control and improvement districts, and under
31 Subchapter J, Chapter 49, Water Code, applicable to
32 the district under Sections 49.001 and 49.002 of that
33 chapter. The revised law also includes a reference to
34 the general authority of the legislature to enact a law
35 to change the district's territory.

36 Revised Law

37 Sec. 9051.052. ANNEXATION OF DISTRICT TERRITORY BY
38 MUNICIPALITY. Territory contained in the district may not be

1 annexed, either wholly or partly, by a municipality unless the
2 annexation is approved by a majority of the voters voting in a
3 single election held jointly in the municipality and the district
4 for that purpose. (Acts 54th Leg., R.S., Ch. 245, Sec. 3A.)

5 Source Law

6 Sec. 3A. Territory contained within the
7 District may not be annexed, either in whole or part,
8 by a municipality unless the annexation is approved by
9 a majority of the voters voting in a single election
10 called and held jointly in the municipality and the
11 District for that purpose.

12 Revisor's Note

13 Section 3A, Chapter 245, Acts of the 54th
14 Legislature, Regular Session, 1955, refers to an
15 election being "called and held." The revised law
16 omits "called" because, in this context, the meaning
17 of that term is included in the meaning of "held."
18 Under Chapter 3, Election Code, all elections must be
19 ordered (called) before they may be held.

20 SUBCHAPTER C. DISTRICT ADMINISTRATION

21 Revised Law

22 Sec. 9051.101. COMPOSITION OF BOARD; TERMS. The board
23 consists of five elected directors who serve staggered four-year
24 terms that begin on May 16 following their election. (Acts 54th
25 Leg., R.S., Ch. 245, Sec. 4 (part).)

26 Source Law

27 Sec. 4. The District's powers shall be exercised
28 through a Board of Directors consisting of five (5)
29 members. . . . The successors to the first Board of
30 Directors shall be elected by the qualified voters of
31 the District. . . . Directors . . . shall be elected
32 for staggered four-year terms, commencing on May 16th
33 following their election. . . .

34 Revisor's Note

35 (1) Section 4, Chapter 245, Acts of the 54th
36 Legislature, Regular Session, 1955, provides that
37 "[t]he District's powers shall be exercised through"
38 the board. The revised law omits the provision because
39 it duplicates in substance provisions of Sections

1 49.051 and 49.057, Water Code. Throughout this
2 chapter, the revised law omits law that is superseded
3 by Chapter 49, Water Code, or that duplicates law
4 contained in that chapter. Chapter 49 applies to the
5 district under Sections 49.001 and 49.002 of that
6 chapter.

7 (2) Section 4, Chapter 245, Acts of the 54th
8 Legislature, Regular Session, 1955, provides that the
9 directors shall be elected by the "qualified voters of
10 the District." The revised law omits the quoted
11 language as unnecessary in this context because
12 Chapter 11, Election Code, governs eligibility to vote
13 in an election in this state and allows only
14 "qualified" voters who are residents of the territory
15 covered by the election to vote in an election.

16 (3) Section 4, Chapter 245, Acts of the 54th
17 Legislature, Regular Session, 1955, refers to the
18 appointment of directors for terms that end in 1956 and
19 1957 and the election of directors for terms beginning
20 in 1956 and 1957. The revised law omits those
21 provisions as executed. The omitted law reads:

22 Sec. 4. . . . The Governor, with the
23 advice and consent of the Senate, shall
24 appoint two (2) members to the Board of
25 Directors to serve for a term expiring on
26 the 15th day of April, 1956, and three (3)
27 members to serve for a term expiring on the
28 15th day of April, 1957. . . . Two (2)
29 Directors shall be elected on the first
30 Saturday in April, 1956, and three (3) on
31 the first Saturday in April, 1957, and
32

33 (4) Section 4, Chapter 245, Acts of the 54th
34 Legislature, Regular Session, 1955, provides for the
35 election of directors in even-numbered years on the
36 first Saturday in May. The revised law omits the
37 provision as superseded by Section 49.103(b), Water
38 Code, as amended in 2005, which requires directors'
39 elections to be held on the uniform election date in

1 May of even-numbered years. Under Section 41.001(a),
2 Election Code, the uniform election date in May is the
3 second Saturday of that month. The omitted law reads:

4 Sec. 4. . . . each even-numbered
5 year thereafter on the first Saturday in May
6 two or three [Directors], as appropriate,
7 [shall be elected]

8 (5) Section 4, Chapter 245, Acts of the 54th
9 Legislature, Regular Session, 1955, provides that a
10 director holds office until the director's successor
11 has been elected and qualified for office. The revised
12 law omits that provision because it duplicates Section
13 17, Article XVI, Texas Constitution, which provides
14 that an officer in this state is to continue to perform
15 the officer's duties until the successor has
16 qualified. The omitted law reads:

17 Sec. 4. . . . [Each director] . . .
18 shall hold office until his successor has
19 been elected and has qualified. . . .

20 Revised Law

21 Sec. 9051.102. QUALIFICATIONS FOR OFFICE. A director must:

22 (1) be a resident, qualified voter; and

23 (2) own taxable property in the district. (Acts 54th
24 Leg., R.S., Ch. 245, Sec. 4 (part).)

25 Source Law

26 Sec. 4. . . . All members of the Board of
27 Directors shall be resident qualified electors, owning
28 taxable property within the area comprising the
29 District. . . .

30 Revisor's Note

31 Section 4, Chapter 245, Acts of the 54th
32 Legislature, Regular Session, 1955, refers to
33 "electors." The revised law substitutes "voter" for
34 "electors" because "voter" is the term used in the
35 Election Code.

36 Revised Law

37 Sec. 9051.103. DIRECTOR'S BOND. (a) Each director must
38 qualify by giving bond in the amount of \$5,000 for the faithful

1 performance of the director's duties.

2 (b) The bond must be recorded in the official bond records
3 of the county. (Acts 54th Leg., R.S., Ch. 245, Sec. 4 (part).)

4 Source Law

5 Sec. 4. . . . When appointed or elected as
6 aforesaid, the members of said Board of Directors
7 shall qualify by taking the oath of office and
8 executing the bonds hereinafter prescribed, and
9 Each Director shall subscribe to the
10 Constitutional oath of office and give bond for the
11 faithful performance of his duties in the amount of
12 Five Thousand Dollars (\$5,000.00) and The
13 aforesaid official bonds shall be recorded in the
14 Official Bond Records of the county. . . .

15 Revisor's Note

16 Section 4, Chapter 245, Acts of the 54th
17 Legislature, Regular Session, 1955, provides that each
18 director must qualify by "taking the oath of office"
19 and shall "subscribe to the Constitutional oath of
20 office." The revised law omits those provisions
21 because Section 1, Article XVI, Texas Constitution,
22 requires all officers to take the oath (or
23 affirmation) before assuming office.

24 Revised Law

25 Sec. 9051.104. QUORUM. Any three members of the board
26 constitute a quorum. (Acts 54th Leg., R.S., Ch. 245, Sec. 4
27 (part).)

28 Source Law

29 Sec. 4. . . . Any three (3) members of the Board
30 shall constitute a quorum for the adoption or passage
31 of any resolution or order or the transaction of any
32 business of the District. . . .

33 Revisor's Note

34 Section 4, Chapter 245, Acts of the 54th
35 Legislature, Regular Session, 1955, provides that any
36 three members of the board constitute a quorum "for the
37 adoption or passage of any resolution or order or the
38 transaction of any business of the District." The
39 revised law omits the quoted language because "quorum"
40 means the number of persons or votes necessary for a

body to act.

Revised Law

Sec. 9051.105. OFFICERS. The board shall elect from among its members a president, a vice president, and a secretary-treasurer. (Acts 54th Leg., R.S., Ch. 245, Sec. 4 (part).)

Source Law

Sec. 4. . . . Board of Directors . . . shall organize by electing one (1) of their number as president, one (1) as vice-president, and one (1) as secretary-treasurer. . . .

Revised Law

Sec. 9051.106. EMPLOYEES. The board may employ engineers, attorneys, and other technical or nontechnical employees or assistants and set and provide the amount and manner of their compensation. (Acts 54th Leg., R.S., Ch. 245, Sec. 4 (part).)

Source Law

Sec. 4. . . . The Board of Directors . . . may employ engineers, attorneys and all other technical and non-technical employees or assistants and fix and provide the amount and manner of their compensation, and

Revisor's Note

Section 4, Chapter 245, Acts of the 54th Legislature, Regular Session, 1955, provides that the board shall "fix" the amount of compensation of district employees. Throughout this chapter, in this and similar contexts, the revised law substitutes "set" for "fix" because the terms are synonymous in these contexts and "set" is more commonly used.

Revised Law

Sec. 9051.107. EXPENDITURES. The board may provide for the payment of expenditures considered essential to the proper maintenance and administration of the district. (Acts 54th Leg., R.S., Ch. 245, Sec. 4 (part).)

Source Law

Sec. 4. . . . The Board of Directors . . . may provide for the payment of expenditures deemed

1 essential to the proper maintenance and administration
2 of the District. . . .

3 Revised Law

4 Sec. 9051.108. COMPENSATION OF DIRECTORS. (a) A director
5 shall receive a fee of \$3 per day for attending each board meeting,
6 except that not more than \$6 per day may be paid to a director for
7 meetings held in any one calendar month.

8 (b) In all areas of conflict with Subsection (a) of this
9 section, Section 49.060, Water Code, takes precedence.

10 (c) A director's compensation may be increased as
11 authorized by Section 49.060, Water Code, by resolution adopted by
12 the board in accordance with Subsection (e) of that section on or
13 after September 1, 1995. (Acts 54th Leg., R.S., Ch. 245, Sec. 4
14 (part); New.)

15 Source Law

16 Sec. 4. . . . The members of the Board of
17 Directors shall receive a fee of Three Dollars (\$3.00)
18 per day for attending each meeting of the Board,
19 provided that not more than Six Dollars (\$6.00) shall
20 be paid to any Director for meetings held in any one
21 calendar month.

22 Revisor's Note

23 Section 4, Chapter 245, Acts of the 54th
24 Legislature, Regular Session, 1955, provides that
25 "[t]he members of the Board of Directors shall receive
26 a fee of Three Dollars (\$3.00) per day for attending
27 each meeting of the Board, provided that not more than
28 Six Dollars (\$6.00) shall be paid to any Director for
29 meetings held in any one calendar month." Section
30 49.060, Water Code, enacted in 1995 and applicable by
31 its own terms to the district, also provides for a
32 director's fees of office, computed on a rate per day
33 of certain service, and, under Subsection (a-1) of
34 that section, enacted in 2003, requires the board of
35 each district to adopt a resolution limiting a
36 director's total annual fees of office. Section
37 49.060(e) provides that, in all areas of conflict,

1 Section 49.060 takes precedence over all prior
2 statutory enactments and that, if the enactment of
3 that section would result in a fee increase, the
4 increase does not apply to a district unless the board
5 by resolution authorizes payment of the higher fees.
6 It is unclear to what extent the quoted language may be
7 in conflict with Section 49.060. To preserve the
8 ambiguity, the revised law includes the substance of
9 the quoted language and adds provisions necessary to
10 preserve the effect of Section 49.060 to the extent of
11 a conflict with that language.

12 Revised Law

13 Sec. 9051.109. BUDGET. (a) Before the adoption of the
14 district's annual tax rate, the president of the board must
15 prepare, or have prepared, and the board must approve a budget to
16 cover all proposed expenditures of the district for the succeeding
17 tax year.

18 (b) The budget must:

19 (1) be itemized to make as clear as practicable a
20 comparison between the expenditures included in the proposed budget
21 and the actual expenditures for the same or similar purposes for the
22 preceding tax year;

23 (2) show as definitely as possible each project for
24 which appropriations are included in the budget and the estimated
25 amount of money included in the budget for each project; and

26 (3) contain a complete financial statement of the
27 district showing:

28 (A) all outstanding obligations;

29 (B) the cash on hand to the credit of each fund;

30 (C) the money received from all sources during
31 the preceding year;

32 (D) the money available from all sources during
33 the succeeding year;

34 (E) the estimated revenue available to cover the

1 proposed budget; and

2 (F) the estimated tax rate required for the
3 succeeding tax year. (Acts 54th Leg., R.S., Ch. 245, Sec. 6 (part).)

4 Source Law

5 Sec. 6. . . . Prior to the time above specified
6 for the fixing of the District's annual tax rate, the
7 president of the Board of Directors shall prepare, or
8 cause to be prepared, and the Board of Directors shall
9 have officially and finally approved, a budget to
10 cover all proposed expenditures of the District for
11 the succeeding tax year. Such budget shall be itemized
12 so as to make as clear as practicable a comparison
13 between the expenditures included in the proposed
14 budget and the actual expenditures for the same or
15 similar purposes for the preceding tax year. Said
16 budget shall be prepared so as to show as definitely as
17 possible each of the various projects for which
18 appropriations are set up in the budget, and the
19 estimated amount of money carried in the budget for
20 each of such projects. The budget shall also contain a
21 complete financial statement of the District showing
22 all outstanding obligations, the cash on hand to the
23 credit of each and every fund, the funds received from
24 all sources during the previous year, the funds
25 available from all sources during the ensuing year,
26 the estimated revenue available to cover the proposed
27 budget, and the estimated rate of tax which will be
28 required for the succeeding tax year.

29 Revisor's Note

30 (1) Section 6, Chapter 245, Acts of the 54th
31 Legislature, Regular Session, 1955, refers to the
32 "fixing" of the district's annual tax rate. The
33 revised law substitutes "adoption" for "fixing" to
34 conform to the terminology used in Section 26.05, Tax
35 Code.

36 (2) Section 6, Chapter 245, Acts of the 54th
37 Legislature, Regular Session, 1955, refers to "funds"
38 received by or available to the district. The revised
39 law substitutes "money" for "funds" because, in that
40 context, the meaning is the same and "money" is the
41 more commonly used term.

42 Revisor's Note
43 (End of Subchapter)

44 (1) Section 4, Chapter 245, Acts of the 54th
45 Legislature, Regular Session, 1955, provides that
46 directors' elections must be held in the manner

provided by "Chapter 25 of the General Laws adopted by the 39th Legislature at its Regular Session in 1925, as amended." Chapter 25 was incorporated in Chapter 3A, Title 128, Revised Statutes. The pertinent provisions of that chapter were codified in 1971 as Subchapter C, Chapter 51, Water Code. Chapter 715, Acts of the 74th Legislature, Regular Session, 1995, repealed many of the provisions of Subchapter C, Chapter 51, Water Code, and enacted similar provisions in Subchapter D, Chapter 49, Water Code. The revised law omits the reference to the election provisions because Chapter 51, Water Code, applies to the district under Section 9051.151 of this chapter and Chapter 49, Water Code, applies to the district under that section and Sections 49.001 and 49.002, Water Code. The revised law omits "as amended" because under Section 311.027, Government Code (Code Construction Act), a reference to a statute applies to all reenactments, revisions, or amendments of that statute unless expressly provided otherwise. The omitted law reads:

Sec. 4. . . . The elections herein provided for shall be called, conducted and canvassed in the manner provided by Chapter 25 of the General Laws adopted by the 39th Legislature at its Regular Session in 1925, as amended. . . .

(2) Section 4, Chapter 245, Acts of the 54th Legislature, Regular Session, 1955, describes the procedure for filling a board vacancy. The revised law omits that provision because it duplicates in substance Section 49.105(a), Water Code. The omitted law reads:

Sec. 4. . . . The Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office for the unexpired term for which they were appointed. . . .

(3) Section 1, Chapter 1449, Acts of the 75th

1 Legislature, Regular Session, 1997, amended Section 4,
2 Chapter 245, Acts of the 54th Legislature, Regular
3 Session, 1955, to change the date for electing
4 directors and the terms of directors. Section 2 of
5 Chapter 1449 provided transition procedures regarding
6 the election and terms of certain directors and
7 provided that successor directors serve staggered
8 four-year terms as provided by Section 4 of Chapter
9 245, as amended by that act. The revised law omits the
10 transition procedures regarding the election and terms
11 of certain directors as executed. In addition, the
12 revised law omits the provision requiring that
13 successor directors serve staggered four-year terms as
14 provided by Section 4 of Chapter 245, as amended,
15 because the relevant provisions of that section are
16 revised in this chapter as Section 9051.101, and that
17 section applies by its own terms to the terms of
18 directors. The omitted law reads:

19 Sec. 2. (a) Notwithstanding Section
20 4, Chapter 245, Acts of the 54th
21 Legislature, Regular Session, 1955, as
22 amended by this Act, the Jefferson County
23 Water Control and Improvement District
24 No. 10 shall be governed by the board of
25 directors serving on September 1, 1997,
26 until the board elected on May 2, 1998, in
27 accordance with Subsection (b) of this
28 section takes office.

29 (b) On May 2, 1998, five directors
30 shall be elected to the board of directors
31 of the Jefferson County Water Control and
32 Improvement District No. 10. The directors
33 shall draw lots after election to select two
34 directors to serve two-year terms and three
35 directors to serve four-year terms.
36 Successor directors serve staggered
37 four-year terms as provided by Section 4,
38 Chapter 245, Acts of the 54th Legislature,
39 Regular Session, 1955, as amended by this
40 Act.

41 SUBCHAPTER D. POWERS AND DUTIES

42 Revised Law

43 Sec. 9051.151. GENERAL POWERS. (a) Except as otherwise
44 provided by this chapter, the district has all the powers and duties

1 granted to water control and improvement districts by Chapters 49
2 and 51, Water Code, and all other laws applicable to water control
3 and improvement districts.

4 (b) The district may formulate and execute any plan
5 considered essential to the accomplishment of the purposes for
6 which it is created. (Acts 54th Leg., R.S., Ch. 245, Sec. 2 (part).)

7 Source Law

8 Sec. 2. That, except as otherwise provided
9 herein, the District shall have all the powers,
10 authority and duties granted to water control and
11 improvement districts by Chapter 3A, of Title 128 of
12 the Revised Civil Statutes of Texas, 1925, and all
13 amendments and additions thereto heretofore or
14 hereafter enacted, and all other laws of Texas
15 applicable to water control and improvement
16 districts. . . . It shall, however, have the power to
17 formulate and execute any and all plans deemed
18 essential to the accomplishment of the purposes for
19 which it is created. . . .

20 Revisor's Note

21 (1) Section 2, Chapter 245, Acts of the 54th
22 Legislature, Regular Session, 1955, refers to
23 "powers, authority and duties." The revised law omits
24 "authority" in this context because "authority" is
25 included in the meaning of "powers."

26 (2) Section 2, Chapter 245, Acts of the 54th
27 Legislature, Regular Session, 1955, refers to
28 "Chapter 3A, of Title 128 of the Revised Civil Statutes
29 of Texas, 1925, and all amendments and additions
30 thereto heretofore or hereafter enacted." The revised
31 law substitutes a reference to Chapter 51, Water Code,
32 for the quoted language because the relevant
33 provisions of Chapter 3A, Title 128, Revised Statutes,
34 were codified in 1971 as Chapter 51, Water Code. For
35 the reader's convenience, the revised law includes a
36 reference to Chapter 49, Water Code, because Chapter
37 715, Acts of the 74th Legislature, Regular Session,
38 1995, repealed many provisions of Chapter 51, Water
39 Code, and enacted similar provisions in Chapter 49,

1 Water Code. The revised law omits the reference to
2 "all amendments and additions thereto heretofore or
3 hereafter enacted" because under Section 311.027,
4 Government Code (Code Construction Act), a reference
5 to a statute applies to all reenactments, revisions,
6 or amendments of that statute unless expressly
7 provided otherwise.

8 Revised Law

9 Sec. 9051.152. DISTRICT PROPERTY. (a) The district may
10 acquire, maintain, use, and operate property of any kind or any
11 interest in property necessary to the exercise of the powers,
12 rights, privileges, and functions of the district under this
13 chapter.

14 (b) The district may acquire property or an interest in
15 property as provided by Subsection (a) by purchase, construction,
16 lease, gift, or any other manner. (Acts 54th Leg., R.S., Ch. 245,
17 Sec. 8.)

18 Source Law

19 Sec. 8. The District herein created is
20 authorized to acquire by purchase, construction,
21 lease, gift, or in any other lawful manner, and to
22 maintain, use and operate any and all property of any
23 kind, real, personal or mixed, or any interest therein
24 necessary to the exercise of the powers, rights,
25 privileges and functions possessed by the District
26 under this Act.

27 Revisor's Note

28 (1) Section 8, Chapter 245, Acts of the 54th
29 Legislature, Regular Session, 1955, provides that the
30 district is authorized to acquire property in any
31 "lawful manner." The revised law omits "lawful"
32 because, as a general principle of law, the district is
33 authorized to perform only acts that are lawful.

34 (2) Section 8, Chapter 245, Acts of the 54th
35 Legislature, Regular Session, 1955, refers to
36 "property of any kind, real, personal or mixed." The
37 revised law omits the reference to "real, personal or

1 mixed" property because under Section 311.005(4),
2 Government Code (Code Construction Act), "property"
3 includes both real and personal property, and "mixed"
4 property is property consisting of both real and
5 personal property.

6 Revised Law

7 Sec. 9051.153. COST OF RELOCATING OR ALTERING PROPERTY. If
8 the district's exercise of the power of eminent domain, the power of
9 relocation, or any other power granted by this chapter makes
10 necessary relocating, raising, rerouting, changing the grade of, or
11 altering the construction of a highway, railroad, electric
12 transmission line, telegraph or telephone property or facility, or
13 pipeline, the necessary action shall be accomplished at the sole
14 expense of the district. (Acts 54th Leg., R.S., Ch. 245, Sec. 8A.)

15 Source Law

16 Sec. 8A. In the event that the District, in the
17 exercise of the power of eminent domain or power of
18 relocation, or any other power granted hereunder,
19 makes necessary the relocation, raising, rerouting or
20 changing the grade of, or altering the construction of
21 any highway, railroad, electric transmission line,
22 telephone or telegraph properties and facilities, or
23 pipeline, all such necessary relocation, raising,
24 rerouting, changing of grade or alteration of
25 construction shall be accomplished at the sole expense
26 of the district.

27 Revised Law

28 Sec. 9051.154. POWERS RELATING TO WATERWORKS OR SANITARY
29 SEWER SYSTEM. The district may purchase, construct, or otherwise
30 acquire a waterworks or sanitary sewer system and may:

- 31 (1) own and operate the system; and
32 (2) construct an addition, extension, or improvement
33 to the system. (Acts 54th Leg., R.S., Ch. 245, Sec. 2 (part).)

34 Source Law

35 Sec. 2. . . . The District is expressly
36 authorized to purchase, construct or otherwise acquire
37 a waterworks and sanitary sewer system, either or
38 both, to own and operate the same, and to construct
39 additions, extensions and improvements thereto.

40 Revised Law

41 Sec. 9051.155. CHARGES, FEES, AND TOLLS; PENALTY FOR

1 FAILURE TO PAY. The district may set and collect charges, fees, or
2 tolls for the services of its water and sanitary systems and
3 facilities and impose penalties for the failure to pay when due
4 those charges, fees, or tolls. (Acts 54th Leg., R.S., Ch. 245, Sec.
5 7.)

6 Source Law

7 Sec. 7. The District shall have the right to fix
8 and collect charges, fees or tolls for the services of
9 its water and sanitary systems and facilities, and the
10 District shall have the right to impose penalties for
11 failure to pay when due such charges, fees or tolls.

12 Revised Law

13 Sec. 9051.156. SURVEYS AND INVESTIGATIONS. The board may
14 conduct or arrange for a survey or an engineering investigation to
15 provide information for the district to facilitate the
16 accomplishment of a district purpose. (Acts 54th Leg., R.S., Ch.
17 245, Sec. 4 (part).)

18 Source Law

19 Sec. 4. . . . The Board of Directors from time
20 to time shall be authorized to make or cause to be made
21 surveys and engineering investigations for the
22 information of the District to facilitate the
23 accomplishment of the purposes for which the District
24 is created, and

25 Revisor's Note

26 Section 4, Chapter 245, Acts of the 54th
27 Legislature, Regular Session, 1955, refers to the
28 board's authority to conduct surveys and engineering
29 investigations "from time to time." The revised law
30 omits the quoted language because the power to take an
31 action includes the power to act "from time to time."

32 Revised Law

33 Sec. 9051.157. LIMITATION ON DISTRICT POWERS RELATING TO
34 GROUNDWATER. The district may not adopt or enforce a rule relating
35 to or require a permit for the production or use of groundwater by
36 others. (Acts 54th Leg., R.S., Ch. 245, Sec. 2 (part).)

37 Source Law

38 Sec. 2. . . . Such District, however, shall not
39 have the power to formulate, promulgate or enforce any

1 rules or regulations pertaining to the production or
2 use of underground waters by others or to require
3 permits from them to produce or use underground
4 waters. . . .

5 Revisor's Note

6 (1) Section 2, Chapter 245, Acts of the 54th
7 Legislature, Regular Session, 1955, restricts the
8 district's power to "formulate, promulgate or enforce"
9 certain rules and regulations. The revised law
10 substitutes "adopt" for "formulate" and "promulgate"
11 because, in context, both "formulate" and "promulgate"
12 are included in the meaning of "adopt" and "adopt" is
13 the more commonly used term.

14 (2) Section 2, Chapter 245, Acts of the 54th
15 Legislature, Regular Session, 1955, refers to "rules
16 or regulations" of the district. The revised law
17 substitutes "rules" for "rules or regulations" because
18 in context the terms are synonymous and under Section
19 311.005(5), Government Code (Code Construction Act), a
20 rule is defined to include a regulation.

21 (3) Section 2, Chapter 245, Acts of the 54th
22 Legislature, Regular Session, 1955, refers to
23 "underground waters." The revised law substitutes
24 "groundwater" for "underground waters" for the reason
25 stated in Revisor's Note (5) to Section 9051.002.

26 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

27 Revised Law

28 Sec. 9051.201. TAX METHOD. The district shall use the ad
29 valorem plan of taxation. (Acts 54th Leg., R.S., Ch. 245, Sec. 2
30 (part).)

31 Source Law

32 Sec. 2. . . . [the District] . . . the ad
33 valorem plan of taxation shall be used by it. . . .

34 Revised Law

35 Sec. 9051.202. AUTHORITY TO IMPOSE TAX; TAX ELECTION. (a)
36 If a tax is authorized at an election under Section 49.107, Water

1 Code, the district may impose a tax to provide money:

2 (1) necessary to construct or acquire, maintain, and
3 operate improvements, works, plants, and facilities considered
4 essential or beneficial to the district; or

5 (2) adequate to defray the cost of the maintenance,
6 operation, and administration of the district.

7 (b) An election for the imposition of taxes authorized by
8 this section must be ordered by the board. (Acts 54th Leg., R.S.,
9 Ch. 245, Sec. 5 (part).)

10 Source Law

11 Sec. 5. The District may upon a favorable
12 majority vote of the qualified property taxpaying
13 electors of the District, voting at an election held
14 for that purpose, levy, assess and collect a tax to
15 provide funds necessary to construct or acquire,
16 maintain and operate improvements, works, plants and
17 facilities deemed essential or beneficial to the
18 District and also when so authorized at an election may
19 levy, assess and collect a tax to provide funds
20 adequate to defray the cost of the maintenance and
21 operation and for administration of the District.
22 Elections for the voting of such tax shall be ordered
23 by the Board of Directors and shall be held and
24 conducted in the manner provided by Chapter 25,
25 General Laws of the 39th Legislature, Regular Session,
26 1925, as amended. . . .

27 Revisor's Note

28 (1) Section 5, Chapter 245, Acts of the 54th
29 Legislature, Regular Session, 1955, provides that the
30 district may impose taxes if authorized by "a
31 favorable majority vote of the qualified property
32 taxpaying electors of the District, voting at an
33 election held for that purpose." The revised law
34 substitutes a reference to Section 49.107, Water Code,
35 parts of which duplicate in substance provisions of
36 Section 5.

37 To the extent that Section 5 limits the election
38 to "qualified" voters, the revised law omits the
39 requirement in this context for the reason stated in
40 Revisor's Note (2) to Section 9051.101.

41 To the extent that Section 5 purports to limit the

1 election to "property taxpaying electors," the revised
2 law omits the requirement because in Hill v. Stone, 421
3 U.S. 289 (1975), the United States Supreme Court
4 determined that property ownership as a qualification
5 for voting is an unconstitutional denial of equal
6 protection.

7 (2) Section 5, Chapter 245, Acts of the 54th
8 Legislature, Regular Session, 1955, refers to the
9 district's power to "levy, assess and collect" a tax.
10 The revised law throughout this chapter substitutes
11 "impose" for "levy, assess and collect" because
12 "impose" is the term generally used in Title 1, Tax
13 Code, and includes the levy, assessment, and
14 collection of an ad valorem tax.

15 (3) Section 5, Chapter 245, Acts of the 54th
16 Legislature, Regular Session, 1955, authorizes the
17 district to levy, assess, and collect a tax to provide
18 "funds" necessary or adequate for certain purposes.
19 The revised law substitutes "money" for "funds" for
20 the reason stated in Revisor's Note (2) to Section
21 9051.109.

22 (4) Section 5, Chapter 245, Acts of the 54th
23 Legislature, Regular Session, 1955, provides that tax
24 elections "shall be held and conducted in the manner
25 provided by Chapter 25, General Laws of the 39th
26 Legislature, Regular Session, 1925, as amended." The
27 revised law omits the quoted language for the reason
28 stated in Revisor's Note (1) at the end of Subchapter
29 C.

30 (5) Section 5, Chapter 245, Acts of the 54th
31 Legislature, Regular Session, 1955, provides that
32 taxes levied by the district constitute a lien on the
33 property against which they are levied and assessed
34 and that limitations do not bar the collection or

1 enforcement of those taxes. The revised law omits the
2 provision to the effect that taxes imposed by the
3 district constitute a lien on the property taxed
4 because it duplicates in substance Section 32.01, Tax
5 Code, which provides that a tax lien attaches to
6 property to secure the payment of all taxes,
7 penalties, and interest imposed on the property. The
8 revised law omits the provision to the effect that
9 limitations do not bar the collection or enforcement
10 of those taxes because it was repealed by Section 6(b),
11 Chapter 841, Acts of the 66th Legislature, Regular
12 Session, 1979, which repealed all "general, local, and
13 special laws" that conflicted with that act. The 1979
14 act enacted the Property Tax Code (Title 1, Tax Code),
15 a comprehensive, substantive codification of the laws
16 governing the administration of ad valorem taxes.
17 Section 33.05, Tax Code, provides for a statute of
18 limitations on suits to collect delinquent taxes.
19 Sections 32.01 and 33.05, Tax Code, apply to the
20 district under Section 1.02, Tax Code. The omitted law
21 reads:

22 Sec. 5. . . . All taxes levied by
23 the District for any purpose shall
24 constitute a lien on the property against
25 which such taxes are levied and assessed and
26 limitations shall not bar the collection or
27 enforcement thereof.

28 Revised Law

29 Sec. 9051.203. TAX ASSESSOR AND COLLECTOR. The board shall
30 appoint a tax assessor and collector. (Acts 54th Leg., R.S., Ch.
31 245, Sec. 6 (part).)

32 Source Law

33 Sec. 6. Prior to the issuance of bonds payable
34 wholly or partially from ad valorem taxes and prior to
35 the levy of taxes for any other purpose, the Board of
36 Directors shall appoint a Tax Assessor and Collector
37 and

1 Revisor's Note

2 Section 6, Chapter 245, Acts of the 54th
3 Legislature, Regular Session, 1955, provides that
4 before issuing bonds payable wholly or partly from ad
5 valorem taxes and before levying taxes for any other
6 purpose, the board shall appoint a tax assessor and
7 collector. The revised law omits the language about
8 the initial bonds and the initial imposition of taxes
9 as executed. The district has issued bonds payable
10 wholly or partly from ad valorem taxes and has imposed
11 taxes.

12 Revised Law

13 Sec. 9051.204. TAX RATE. The board shall set the tax rate
14 of the district annually and certify the rate to the tax assessor
15 and collector. (Acts 54th Leg., R.S., Ch. 245, Sec. 6 (part).)

16 Source Law

17 Sec. 6. . . . it shall be the duty of the Board
18 to fix the tax rate of the District for the current
19 year and to certify such rate to the Assessor and
20 Collector

21 Revisor's Note
22 (End of Subchapter)

23 (1) Section 6, Chapter 245, Acts of the 54th
24 Legislature, Regular Session, 1955, provides that the
25 district's board shall appoint a board of equalization
26 and equalize valuations. The revised law omits those
27 provisions because they were repealed by Section 6(b),
28 Chapter 841, Acts of the 66th Legislature, Regular
29 Session, 1979, which repealed all "general, local, and
30 special laws" that conflicted with that act. The 1979
31 act enacted the Property Tax Code (Title 1, Tax Code),
32 a comprehensive, substantive codification of the laws
33 governing the administration of ad valorem taxes.
34 Under Title 1, boards of equalization were replaced by
35 the appraisal review board for each appraisal
36 district. The omitted law reads:

1 Sec. 6. . . . [the Board of Directors
2 shall appoint] . . . a Board of
3 Equalization consisting of five (5)
4 members, and shall cause . . . valuations
5 to be equalized and . . . The Board of
6 Equalization shall be appointed
7 annually. . . .

8 (2) Section 6, Chapter 245, Acts of the 54th
9 Legislature, Regular Session, 1955, provides that the
10 district's board shall cause taxes to be assessed. The
11 revised law omits that provision because it was
12 repealed by Section 6(b), Chapter 841, Acts of the 66th
13 Legislature, Regular Session, 1979. See Revisor's
14 Note (1). Title 1, Tax Code, provides the exclusive
15 procedures for the assessment and collection of taxes
16 by a taxing unit, including the district. Section
17 6.23(b), Tax Code, provides that the assessor and
18 collector for a taxing unit other than a county shall
19 assess, collect, or assess and collect taxes, as
20 applicable, for the unit. Section 6.23(b), Tax Code,
21 applies to the district under Section 1.02, Tax Code.
22 The omitted law reads:

23 Sec. 6. . . . [the Board of Directors
24 . . . shall cause] taxes to be assessed,
25

26 (3) Section 6, Chapter 245, Acts of the 54th
27 Legislature, Regular Session, 1955, provides that the
28 district's board shall have tax rolls prepared. The
29 revised law omits that provision because it was
30 repealed by Section 6(b), Chapter 841, Acts of the 66th
31 Legislature, Regular Session, 1979. See Revisor's
32 Note (1). Section 26.09(a), Tax Code, requires the
33 assessor for a taxing unit other than a county to
34 calculate the tax imposed on each property included on
35 the appraisal roll for the unit. Section 26.09(e), Tax
36 Code, requires the assessor for a taxing unit to enter
37 on the appraisal roll for the unit the amount of tax
38 imposed on each property included on the roll and

1 submit it to the governing body of the unit for
2 approval and provides that the appraisal roll with
3 amounts of tax entered as approved by the governing
4 body constitutes the unit's tax roll. Section 26.09,
5 Tax Code, applies to the district under Section 1.02,
6 Tax Code. The omitted law reads:

7 Sec. 6. . . . [the Board of Directors
8 . . . shall cause] . . . tax rolls to be
9 prepared. . . .

10 (4) Section 6, Chapter 245, Acts of the 54th
11 Legislature, Regular Session, 1955, provides that
12 certain tax-related general laws relating to water
13 control and improvement districts apply to the
14 district. The revised law omits that provision as
15 unnecessary. To the extent those laws conflict with
16 Title 1, Tax Code, the provision is repealed by Section
17 6(b), Chapter 841, Acts of the 66th Legislature,
18 Regular Session, 1979. See Revisor's Note (1). To the
19 extent those laws do not conflict with Title 1, Tax
20 Code, the provision duplicates in substance that part
21 of Section 9051.151 of this chapter that provides that
22 the district has all the powers and duties granted by
23 laws applicable to water control and improvement
24 districts. The omitted law reads:

25 Sec. 6. . . . Where applicable and
26 not in conflict herewith, the General Laws
27 relating to water control and improvement
28 districts with reference to Tax Assessors
29 and Collectors, Board of Equalization, tax
30 rolls and the levy and collection of taxes
31 and delinquent taxes, shall be applicable
32 to this District. . . . All provisions of
33 the General Laws pertaining to the levy,
34 assessment and collection of ad valorem
35 taxes by water control and improvement
36 districts, including the enforcement
37 thereof, and the processes for the
38 collection of delinquent taxes therein
39 provided shall be applicable to the
40 District herein created. . . .

41 (5) Section 6, Chapter 245, Acts of the 54th
42 Legislature, Regular Session, 1955, requires the board

1 to adopt the tax rate of the district within 10 days
2 after the tax assessor and collector certifies the
3 assessed valuation of property to the board and
4 requires the board to certify the rate to the tax
5 assessor and collector immediately after adopting it.
6 The revised law omits the provisions regarding the
7 timing of the adoption and certification of the tax
8 rate because they were repealed by Section 6(b),
9 Chapter 841, Acts of the 66th Legislature, Regular
10 Session, 1979. See Revisor's Note (1). Section 26.05,
11 Tax Code, requires the governing body of each taxing
12 unit, before the later of September 30 or the 60th day
13 after the date the certified appraisal roll is
14 received by the taxing unit, to adopt a tax rate for
15 the current tax year and notify the assessor for the
16 unit of the rate adopted. Section 26.05, Tax Code,
17 formerly applied to the district under Section 1.02,
18 Tax Code. Chapter 1423, Acts of the 77th Legislature,
19 Regular Session, 2001, subsequently enacted Section
20 49.107(g), Water Code, which provides that certain
21 sections of the Tax Code, including Section 26.05, Tax
22 Code, do not apply to a district that is subject to
23 Chapter 49, Water Code, including the district. To the
24 extent that Chapter 49, Water Code, establishes
25 procedures for the adoption of a tax rate and
26 notification of the rate adopted, the district is
27 bound by those procedures. The omitted law reads:

28 Sec. 6. . . . Within ten (10) days
29 after the amount of the assessed valuation
30 of property shall have been certified to the
31 Board of Directors by the Assessor and
32 Collector of Taxes, [it shall be the duty of
33 the Board to fix the tax rate of the
34 District for the current year and to certify
35 such rate to the Assessor and Collector]
36 immediately after it shall have been
37 fixed. . . .

38 (6) Section 6, Chapter 245, Acts of the 54th

1 Legislature, Regular Session, 1955, requires the tax
2 assessor and collector to show on the tax roll for each
3 item of taxable property situated in the district the
4 amount of tax imposed by the district. The revised law
5 omits that provision because it duplicates in
6 substance provisions of Section 26.09, Tax Code.
7 Section 26.09(a), Tax Code, requires the assessor for
8 a taxing unit other than a county to calculate the tax
9 imposed on each property included on the appraisal
10 roll for the unit. Section 26.09(e), Tax Code,
11 requires the assessor for a taxing unit to enter on the
12 appraisal roll for the unit the amount of tax imposed
13 on each property included on the roll and submit it to
14 the governing body of the unit for approval and
15 provides that the appraisal roll with amounts of tax
16 entered as approved by the governing body constitutes
17 the unit's tax roll. Section 26.09, Tax Code, applies
18 to the district under Section 1.02, Tax Code. The
19 omitted law reads:

20 Sec. 6. . . . The Assessor and
21 Collector shall extend on the tax rolls as
22 to each item of taxable property shown to be
23 situated in the District the amount of tax
24 levied by and for the District. . . .

25 SUBCHAPTER F. BONDS

26 Revised Law

27 Sec. 9051.251. DEFINITION. In this subchapter, "net
28 revenue" means the gross revenue of the district minus the amount
29 necessary to pay the cost of maintaining and operating the district
30 and its property. (Acts 54th Leg., R.S., Ch. 245, Sec. 9(c)
31 (part).)

32 Source Law

33 (c) . . . The term "net revenues" as used in
34 this Act shall mean the gross revenues of the District
35 after deduction of such amounts therefrom as are
36 necessary to pay the cost of maintaining and operating
37 the District and its properties.

Revised Law

Sec. 9051.252. ISSUANCE OF BONDS. (a) To accomplish district purposes, the board may borrow money, issue bonds, and prescribe the method of payment of the bonds by the use of net revenue, taxes, or both net revenue and taxes.

(b) Bonds must be authorized by a board resolution.

(c) In the resolution authorizing the bonds, the district may set aside an amount from the bond proceeds for:

(1) the payment of interest expected to accrue during construction; and

(2) a reserve interest and sinking fund.

(d) Bond proceeds may be used to pay all expenses necessarily incurred in accomplishing district purposes, including the expenses of issuing and selling the bonds.

(e) Pending the use of bond proceeds for the purpose for which the bonds were issued, the board may invest the proceeds in obligations of the United States. (Acts 54th Leg., R.S., Ch. 245, Secs. 9(a), (b) (part), (f).)

Source Law

Sec. 9. (a) In the accomplishment of the purposes for which the District is created, the Board of Directors is hereby authorized to borrow money, to issue bonds and to prescribe the method of payment thereof either by the use of net revenues, taxes, or both.

(b) Bonds shall be authorized by resolution of the Board of Directors,

(f) From the proceeds of the sale of bonds, the District may set aside an amount for the payment of interest expected to accrue during the construction, and a reserve interest and sinking fund, which such provisions shall be made in the resolution authorizing the bonds. Proceeds from the sale of bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this District is created, including expenses of issuing and selling the bonds. Pending the use of bond proceeds for the purpose for which the bonds were issued, the Board of Directors may invest same in obligations of the United States of America.

Revised Law

Sec. 9051.253. FORM OF BONDS. District bonds must be:

(1) signed by the president; and

1 (2) attested by the secretary. (Acts 54th Leg., R.S.,
2 Ch. 245, Sec. 9(b) (part).)

3 Source Law

4 (b) . . . They shall be signed by the president
5 and attested by the secretary and

6 Revised Law

7 Sec. 9051.254. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
8 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
9 partly from ad valorem taxes may not be issued unless authorized by
10 a majority of the district voters voting at an election.

11 (b) The board may order an election under this section
12 without a petition. The order must specify:

13 (1) the time and places at which the election will be
14 held;

15 (2) the purpose for which the bonds will be issued;

16 (3) the maximum amount of the bonds;

17 (4) the maximum maturity of the bonds;

18 (5) the maximum interest rate;

19 (6) the form of the ballot; and

20 (7) the presiding judge for each voting place.

21 (c) Notice of the election must be given by publishing a
22 substantial copy of the order in a newspaper of general circulation
23 in the district. The notice must be published once each week for
24 two consecutive weeks. The first publication must be at least 14
25 days before the date of the election. (Acts 54th Leg., R.S., Ch.
26 245, Sec. 9(i) (part).)

27 Source Law

28 (i) . . . No bonds payable wholly or partially
29 from ad valorem taxes (except refunding bonds) shall
30 be issued unless authorized by an election at which
31 only the qualified voters who reside in the District,
32 who own taxable property therein, and who have duly
33 rendered the same for taxation, shall be qualified to
34 vote, and unless a majority of the votes cast at said
35 election is in favor of the issuance of the bonds.
36 Bond elections may be called by the Board of Directors
37 without a petition. The resolution calling the
38 election shall specify the time and places of holding
39 the same, the purpose for which the bonds are to be
40 issued, the maximum amount thereof, the maximum
41 maturity thereof, the maximum interest rate, the form

1 of the ballot, and the presiding judge for each voting
2 place. . . . Notice of the election shall be given by
3 publishing a substantial copy of the resolution
4 calling the election in a newspaper or newspapers
5 having general circulation in the District once each
6 week for two consecutive weeks. The first publication
7 shall be at least fourteen (14) days prior to the
8 election. . . .

9 Revisor's Note

10 (1) Section 9(i), Chapter 245, Acts of the 54th
11 Legislature, Regular Session, 1955, provides that the
12 district may not issue bonds payable from ad valorem
13 taxes unless authorized by a majority of "the
14 qualified voters who reside in the District, who own
15 taxable property therein, and who have duly rendered
16 the same for taxation." The revised law omits the
17 reference to "qualified voters who reside in the
18 District" for the reason stated in Revisor's Note (2)
19 to Section 9051.101. The revised law omits the
20 reference to voting only by persons who own taxable
21 property and render that property for taxation for the
22 reason stated in Revisor's Note (1) to Section
23 9051.202.

24 (2) Section 9(i), Chapter 245, Acts of the 54th
25 Legislature, Regular Session, 1955, provides that an
26 election may be "called" by the board and refers to the
27 "resolution calling the election." The revised law
28 substitutes "order" for the quoted language because
29 "called" or "calling" is included in the meaning of
30 holding an election. Under Chapter 3, Election Code,
31 all elections must be ordered (called) before they may
32 be held.

33 (3) Section 9(i), Chapter 245, Acts of the 54th
34 Legislature, Regular Session, 1955, provides that the
35 presiding judge serving at each voting place shall
36 appoint the necessary assistant judges and clerks for
37 holding the election. The revised law omits the
38 provision as superseded by the 1985 enactment of the

1 Election Code, applicable to the district under
2 Section 1.002, Election Code. Chapter 32, Election
3 Code, governs the selection of election judges and
4 clerks. The omitted law reads:

5 (i) . . . The presiding judge serving
6 at each voting place shall appoint the
7 necessary assistant judges and clerks for
8 holding such election. . . .

9 (4) Section 9(i), Chapter 245, Acts of the 54th
10 Legislature, Regular Session, 1955, requires that
11 election returns be made to the board. The revised law
12 omits that requirement because it duplicates in
13 substance Sections 66.022 and 66.051(a), Election
14 Code. Section 9(i) also requires the board to canvass
15 the election returns. The revised law omits that
16 requirement because it duplicates in substance Section
17 67.002, Election Code. The omitted law reads:

18 (i) . . . The returns of the election
19 shall be made to and canvassed by the Board
20 of Directors of the District. . . .

21 (5) Section 9(i), Chapter 245, Acts of the 54th
22 Legislature, Regular Session, 1955, provides that the
23 general laws relating to elections apply to an
24 election under that section, except as otherwise
25 provided by that act. The revised law omits that
26 provision because Section 1.002, Election Code,
27 provides that the Election Code applies to all
28 elections held in this state. An exception to the
29 application of the Election Code would apply by its own
30 terms. The omitted law reads:

31 (i) . . . The General Laws relating
32 to elections shall be applicable to
33 elections held under this Section of this
34 Act, except as otherwise provided in this
35 Act.

36 Revised Law

37 Sec. 9051.255. BONDS PAYABLE FROM AD VALOREM TAXES; TAX
38 RATE. (a) If bonds are issued payable wholly or partly from ad

1 valorem taxes, the board shall impose a tax sufficient to pay the
2 bonds and the interest on the bonds as the bonds and interest become
3 due.

4 (b) The board may adopt the rate of a tax imposed under
5 Subsection (a) for any year after giving consideration to the money
6 received from the pledged revenue that may be available for payment
7 of principal and interest to the extent and in the manner permitted
8 by the resolution authorizing the issuance of the bonds. (Acts 54th
9 Leg., R.S., Ch. 245, Sec. 9(d).)

10 Source Law

11 (d) Where bonds are issued payable wholly or
12 partially from ad valorem taxes, it shall be the duty
13 of the Board of Directors to levy a tax sufficient to
14 pay the bonds and the interest thereon as such bonds
15 and interest become due, but the rate of the tax for
16 any year may be fixed after giving consideration to the
17 money received from the pledged revenues which may be
18 available for the payment of the principal and
19 interest to the extent and in the manner permitted by
20 the resolution authorizing the issuance of the bonds.

21 Revisor's Note

22 Section 9(d), Chapter 245, Acts of the 54th
23 Legislature, Regular Session, 1955, provides that the
24 rate of the property tax for any year may be "fixed" by
25 the board. The revised law substitutes "adopt" for
26 "fixed" for the reason stated in Revisor's Note (1) to
27 Section 9051.109.

28 Revised Law

29 Sec. 9051.256. ELECTION NOT REQUIRED FOR CERTAIN BONDS.
30 Bonds payable solely from the district's net revenue, from the
31 proceeds of any water contract, or from any source other than ad
32 valorem taxes may be issued pursuant to a board resolution without a
33 hearing or election. (Acts 54th Leg., R.S., Ch. 245, Sec. 9(i)
34 (part).)

35 Source Law

36 (i) Bonds payable wholly from the District's net
37 revenues, or from the proceeds of any water contract,
38 or by any means other than ad valorem taxes, may be
39 issued pursuant to resolution of the Board of
40 Directors without the necessity of any hearing or
41 election. . . .

Revised Law

Sec. 9051.257. BONDS SECURED BY REVENUE; ADDITIONAL BONDS. District bonds may be secured by a pledge of all or part of the net revenue of the district, or by the net revenue of one or more contracts made before or after the issuance of the bonds, or other revenue in the manner specified by board resolution. The pledge may reserve the right, under conditions specified by the pledge, to issue additional bonds that will be on a parity with or subordinate to the bonds then being issued. (Acts 54th Leg., R.S., Ch. 245, Sec. 9(c) (part).)

Source Law

(c) Bonds may be secured by a pledge of all or any part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made, or other revenues in such manner as may be specified by resolution of the Board of Directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. . . .

Revised Law

Sec. 9051.258. CHARGES FOR DISTRICT SERVICES. If district bonds payable wholly or partly from revenue are issued, the board shall set by contract with the persons who contract with it for a water supply or water or sewer facilities the rates of compensation for water sold and water or sewer services provided by the district. The rates must be sufficient to pay:

(1) the expense of operating and maintaining the district and its facilities; and

(2) all obligations incurred by the district as they mature, including the reserve fund and other funds as may be provided for the bonds or other contracts under the terms of the bonds or other contracts and as may be provided in the board resolution pertaining to the bonds or other contracts. (Acts 54th Leg., R.S., Ch. 245, Sec. 9(e).)

Source Law

(e) Where bonds payable wholly or partially from revenues are issued it shall be the duty of the Board of Directors to fix by contract with all cities,

1 persons, firms, corporations or public agencies which
2 may contract with it for a water supply or water and/or
3 sewer facilities, such rates or compensation for water
4 sold and water and/or sewer services furnished by the
5 District as will be sufficient to pay the expenses of
6 operating and maintaining the District and its
7 facilities and to pay, as they mature, all such
8 obligations incurred by it, including such reserve and
9 other funds as may be provided for the bonds or other
10 contracts under the terms thereof, and as may be
11 provided in the Board of Directors resolution
12 pertaining thereto.

13 Revisor's Note

14 (1) Section 9(e), Chapter 245, Acts of the 54th
15 Legislature, Regular Session, 1955, refers to
16 contracts with "cities, persons, firms, corporations
17 or public agencies." The revised law omits the
18 references to "cities," "firms," "corporations," and
19 "public agencies" because under Section 311.005(2),
20 Government Code (Code Construction Act), "person" is
21 defined to include any legal entity.

22 (2) Section 9(e), Chapter 245, Acts of the 54th
23 Legislature, Regular Session, 1955, provides that
24 "rates or compensation" set by the board for water sold
25 and water or sewer services provided by the district
26 must be sufficient to pay certain expenses. The
27 revised law substitutes a reference to "rates of
28 compensation" because it is clear from the context
29 that "rates or compensation" is a typographical error
30 and that the legislature intended to refer to "rates of
31 compensation" for water sold and water or sewer
32 services provided.

33 Revised Law

34 Sec. 9051.259. REFUNDING BONDS. (a) The board may issue
35 refunding bonds without an election to refund outstanding bonds
36 issued under this subchapter and interest on those bonds.

37 (b) Refunding bonds may be issued to refund bonds of more
38 than one series.

39 (c) In the case of bonds secured wholly or partly by net
40 revenue, the district may:

(1) combine the pledges for the outstanding bonds for the security of the refunding bonds; or

(2) secure the refunding bonds by a pledge of other or additional revenue.

(d) The provisions of this subchapter regarding the issuance of other bonds and the rights and remedies of the holders apply to refunding bonds. (Acts 54th Leg., R.S., Ch. 245, Sec. 9(h).)

Source Law

(h) The Board of Directors is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon without the necessity of an election. Such refunding bonds may be issued to refund more than one series of outstanding bonds, and in the case of bonds secured in whole or in part by net revenues, the District may combine the pledges for the outstanding bonds for the security of the refunding bonds, and may secure them by other or additional revenues. The provisions of this Act with reference to the issuance of other bonds and their approval by the Attorney General and the rights and remedies of the holders shall be applicable to refunding bonds.

Revisor's Note

Section 9(h), Chapter 245, Acts of the 54th Legislature, Regular Session, 1955, refers to the "approval by the Attorney General" of refunding bonds. The revised law omits the quoted language because it duplicates in substance Section 1202.003, Government Code. Throughout this chapter, the revised law omits law that is superseded by Chapter 1202, Government Code, or that duplicates law contained in that chapter. Chapter 1202, Government Code, applies under Sections 1202.001 and 1202.003(c), Government Code.

Revised Law

Sec. 9051.260. BONDS EXEMPT FROM TAXATION. A bond issued under this chapter, the transfer of the bond, and the income from the bond, including profits on the sale of the bond, are exempt from taxation by this state or by any political subdivision of this state. (Acts 54th Leg., R.S., Ch. 245, Sec. 10.)

1 Legislature, Regular Session, 1955, provides that
2 district bonds shall bear interest at the rate or rates
3 determined by the board. The revised law omits that
4 provision because it duplicates Sections 1201.021(2)
5 and 1201.025, Government Code. The omitted law reads:

6 (b) [Bonds . . . shall] . . . bear
7 interest at such rate or rates [as the Board
8 of Directors may determine.] . . .

9 (3) Section 9(b), Chapter 245, Acts of the 54th
10 Legislature, Regular Session, 1955, provides that
11 district bonds must bear the seal of the district. The
12 revised law omits that provision because it is
13 superseded by Section 1201.026(a), Government Code
14 (enacted as Section 3, Bond Procedures Act of 1981
15 (Article 717k-6, Vernon's Texas Civil Statutes)),
16 which provides that bonds may be signed with or without
17 a seal. The omitted law reads:

18 (b) . . . [They] . . . shall have the
19 seal of the District impressed thereon.
20 . . .

21 (4) Section 9(b), Chapter 245, Acts of the 54th
22 Legislature, Regular Session, 1955, provides that
23 district bonds may be sold at a price and under terms
24 that the board determines to be the most advantageous
25 and reasonable obtainable. The revised law omits that
26 provision because it duplicates or is superseded by
27 provisions of general law. Section 1204.006(b),
28 Government Code, enacted as Section 2(a), Chapter 3,
29 Acts of the 61st Legislature, Regular Session, 1969
30 (Article 717k-2, Vernon's Texas Civil Statutes),
31 provides that an issuer may sell public securities "at
32 any price." Section 1204.006(b), Government Code,
33 applies to district bonds under Sections 1204.001 and
34 1204.002, Government Code. Section 1201.022,
35 Government Code, as amended in 2001, provides that an
36 issuer may sell public securities "under the terms

1 determined by the governing body of the issuer to be in
2 the issuer's best interests." The omitted law reads:

3 (b) . . . All bonds may be sold at
4 such price and under such terms as may be
5 determined by the Board of Directors to be
6 the most advantageous and reasonable
7 obtainable,

8 (5) Section 9(b), Chapter 245, Acts of the 54th
9 Legislature, Regular Session, 1955, provides that the
10 interest cost to the district for district bonds may
11 not exceed six percent per year. The revised law omits
12 that provision as superseded by other law. Chapter 3,
13 Acts of the 61st Legislature, Regular Session, 1969
14 (Article 717k-2, Vernon's Texas Civil Statutes), now
15 Chapter 1204, Government Code, established a maximum
16 interest rate for public securities. Section
17 1204.006, Government Code, reflecting the 1981
18 amendment of Article 717k-2 by Section 1, Chapter 61,
19 Acts of the 67th Legislature, Regular Session, permits
20 a public agency to issue public securities at any net
21 effective interest rate of 15 percent or less. Section
22 1204.006, Government Code, applies to district bonds
23 under Sections 1204.001 and 1204.002, Government Code.
24 The omitted law reads:

25 (b) . . . [All bonds may be sold]
26 . . . provided that the interest cost to the
27 District, calculated by use of standard
28 bond interest tables currently in use by
29 insurance companies and investment houses
30 does not exceed six per cent (6%) per
31 annum. . . .

32 (6) Section 9(b), Chapter 245, Acts of the 54th
33 Legislature, Regular Session, 1955, provides that
34 district bonds may be redeemed before maturity at the
35 time and price specified in the resolution authorizing
36 the bonds. The revised law omits that provision
37 because it duplicates Sections 1201.021 and 1201.022,
38 Government Code, which provide that a public security
39 may be redeemed before maturity and be payable in

1 specified amounts and at specified times. The omitted
2 law reads:

3 (b) . . . Within the discretion of
4 the Board, bonds may be made callable and
5 subject to redemption prior to their
6 maturity at such time and at such prices as
7 may be prescribed in the authorizing
8 resolution. . . .

9 (7) Section 9(b), Chapter 245, Acts of the 54th
10 Legislature, Regular Session, 1955, provides that
11 interest on district bonds may be payable annually or
12 semiannually in the discretion of the board. The
13 revised law omits that provision because it is
14 superseded by Section 1201.021, Government Code
15 (enacted as Section 3, Bond Procedures Act of 1981
16 (Article 717k-6, Vernon's Texas Civil Statutes)),
17 which provides in part that a public security may be
18 payable at the times and in the amounts specified by
19 the governing body of the issuer. The omitted law
20 reads:

21 (b) . . . Interest on all bonds shall
22 be payable annually or semi-annually within
23 the discretion of the Board of Directors.
24 . . .

25 (8) Section 9(b), Chapter 245, Acts of the 54th
26 Legislature, Regular Session, 1955, states that bonds
27 may be issued in "one or more than one series and from
28 time to time as required in carrying out the purpose of
29 this Act." The revised law omits "one or more than one
30 series" because it duplicates a provision of Section
31 1201.022, Government Code. The revised law omits
32 "from time to time" because the power to issue bonds
33 implies the power to do so at any time. The revised law
34 omits "as required in carrying out the purpose of this
35 Act" because Section 9(a), Chapter 245, Acts of the
36 54th Legislature, Regular Session, 1955, revised in
37 Section 9051.252, authorizes the district to issue
38 bonds to accomplish the purposes for which the

1 district was created. The omitted law reads:

2 (b) . . . Bonds may be issued in one
3 or more than one series and from time to
4 time as required in carrying out the purpose
5 of this Act.

6 (9) Section 9(g), Chapter 245, Acts of the 54th
7 Legislature, Regular Session, 1955, provides that
8 bonds issued by the district are "negotiable
9 instruments within the meaning of the Negotiable
10 Instruments Laws of this State." The revised law omits
11 that provision because the Uniform Negotiable
12 Instruments Act (Articles 5932-5948, Revised
13 Statutes) was repealed in 1965 when the Uniform
14 Commercial Code was adopted (see Title I, Business &
15 Commerce Code) and because the provision duplicates in
16 substance Section 1201.041, Government Code, which
17 provides that a public security is a negotiable
18 instrument. The omitted law reads:

19 (g) All bonds issued by the District
20 pursuant to the provisions of this Act shall
21 constitute negotiable instruments within
22 the meaning of the Negotiable Instruments
23 Laws of this State. . . .

24 (10) Section 9(g), Chapter 245, Acts of the 54th
25 Legislature, Regular Session, 1955, provides that
26 before bonds may be sold by the district, a certified
27 copy of the proceedings for the issuance of the bonds
28 and other information must be submitted to the
29 attorney general; provides that if the attorney
30 general finds that the bonds have been issued in
31 accordance with law, the attorney general shall
32 approve the bonds and execute a certificate of
33 approval; requires that the certificate be filed and
34 recorded in the office of the comptroller; prohibits
35 the issuance of bonds until they have been registered
36 by the comptroller; and requires the comptroller to
37 register the bonds if the attorney general files with

1 the comptroller the attorney general's certificate
2 approving the bonds and the proceedings for the
3 issuance of the bonds. The revised law omits those
4 provisions as duplicative of or superseded by Chapter
5 1202, Government Code, enacted as Article 3, Chapter
6 53, Acts of the 70th Legislature, 2nd Called Session,
7 1987 (Article 717k-8, Vernon's Texas Civil Statutes).
8 Section 1202.003(a), Government Code, requires bonds
9 to be submitted to the attorney general. Section
10 1202.003(b), Government Code, provides for approval of
11 the bonds by the attorney general and requires the
12 attorney general to submit the approved bonds to the
13 comptroller for registration. Section 1202.005,
14 Government Code, requires registration of the bonds by
15 the comptroller. The omitted law reads:

16 (g) . . . Before any bonds shall be
17 sold by the District, a certified copy of
18 the proceedings for the issuance thereof,
19 including the form of such bonds, together
20 with any other information which the
21 Attorney General of Texas may require,
22 shall be submitted to the Attorney General,
23 and if he shall find that such bonds have
24 been issued in accordance with the law, he
25 shall approve such bonds and execute a
26 certificate of approval which shall be
27 filed in the office of the Comptroller of
28 Public Accounts of the State of Texas, and
29 be recorded in the records kept for that
30 purpose. No bonds shall be issued until the
31 same shall have been registered by the
32 Comptroller of Public Accounts, who shall
33 so register the same if the Attorney General
34 shall have filed with the Comptroller of
35 Public Accounts his certificate approving
36 the bonds, and the proceedings for the
37 issuance thereof, as hereinabove provided.
38 . . .

39 (11) Section 9(g), Chapter 245, Acts of the 54th
40 Legislature, Regular Session, 1955, details various
41 procedures regarding the attorney general's approval
42 of bond contracts and proceedings. The revised law
43 omits the portion of Section 9(g) regarding the
44 incontestability of a bond and of a contract the
45 proceeds of which are pledged to the payment of a bond

1 as superseded by Section 1202.006, Government Code
2 (enacted as Section 3.002(d), Chapter 53, Acts of the
3 70th Legislature, 2nd Called Session, 1987 (Article
4 717k-8, Vernon's Texas Civil Statutes)). Section
5 1202.006, Government Code, provides that after
6 approval and registration of the bond, the bond and
7 contract are incontestable for any reason. The
8 omitted law reads:

9 (g) . . . When bonds or the
10 proceedings pertaining thereto recite that
11 they are secured by a pledge of the proceeds
12 of contracts theretofore made between the
13 District and any city, district, or other
14 user, a copy of such contracts and
15 proceedings of the contracting parties
16 shall be submitted to the Attorney General
17 with the bond record, and if such bonds have
18 been duly authorized and such contracts
19 made in compliance with law, he shall
20 approve the bonds and contracts and
21 When approved as aforesaid, the bonds and
22 contracts shall be valid and binding and
23 shall be incontestable for any cause.

24 (12) Section 9(g), Chapter 245, Acts of the 54th
25 Legislature, Regular Session, 1955, provides that
26 after approval the bonds shall be registered with the
27 comptroller. The revised law omits that provision as
28 superseded by Section 1202.005, Government Code
29 (enacted in 1987 as Section 3.002(c), Chapter 53, Acts
30 of the 70th Legislature, 2nd Called Session (Article
31 717k-8, Vernon's Texas Civil Statutes)). The omitted
32 law reads:

33 (g) . . . [the Attorney General . . .
34 shall approve the bonds and contracts and]
35 the bonds shall then be registered by the
36 Comptroller of Public Accounts. . . .

37 Revisor's Note
38 (End of Chapter)

39 (1) Section 2, Chapter 245, Acts of the 54th
40 Legislature, Regular Session, 1955, provides that the
41 district is not required to hold a confirmation
42 election, a hearing on the exclusion of land, or a
43 hearing on the adoption of a plan of taxation. The

1 revised law omits the provision as executed. The
2 provision is a transition provision addressing the
3 applicability of provisions of the general laws in
4 effect at the time of the district's creation that
5 governed the creation of water control and improvement
6 districts. A district created under the general laws
7 in effect at that time would have been required at the
8 time of its creation to hold a confirmation election
9 and hearings on the exclusion of land from the district
10 and the adoption of a plan of taxation. The omitted
11 provision negates those general law requirements as
12 inapplicable to this legislatively created district.
13 The omitted law reads:

14 Sec. 2. . . . It shall not be
15 necessary, however, for the Board of
16 Directors to call or hold a confirmation
17 election, to hold a hearing on exclusion of
18 lands or a hearing on the adoption of a plan
19 of taxation, but

20 (2) Section 12, Chapter 245, Acts of the 54th
21 Legislature, Regular Session, 1955, provides that the
22 act is severable. The revised law omits that provision
23 because the same result is produced by application of
24 Section 311.032, Government Code (Code Construction
25 Act), which states that a provision of a statute is
26 severable from each other provision of the statute
27 that can be given effect. The omitted law reads:

28 Sec. 12. . . . If any provision of
29 this Act shall be invalid, such fact shall
30 not affect the creation of the District, or
31 the validity of any other provision of this
32 Act, and the Legislature here declares that
33 it would have created the District and
34 enacted the valid provisions of this Act,
35 notwithstanding the invalidity of any other
36 provision or provisions hereof.